



Close Proximity

Issue:

This brief explains the rebuttable presumption in cases where the Veteran is not located within a reasonable commute to the firm's headquarters.

(For purposes of this brief, the regulations when referring to Service-Disabled Veterans applies equally to Veterans; applicant refers to the business entity applying for verification; and participant refers to a business entity that has already been verified.)

The Regulations:

13 CFR § 125.13(l) provides:

Close proximity. There is rebuttable presumption that a service-disabled veteran does not control the firm if that individual is not located within a reasonable commute to firm's headquarters and/or job-sites locations, regardless of the firm's industry. The service-disabled veteran's ability to answer emails, communicate by telephone, or to communicate at a distance by other technological means, while delegating the responsibility of managing the concern to others is not by itself a reasonable rebuttal.

What This Means:

- If a Veteran does not live or work near the firm's headquarters or its worksites, it will be presumed that the Veteran is not controlling the firm and the firm is being managed by another.
- This regulation is concerned with the over delegation of authority to non-Veterans

who work at the applicant's office or worksites.

- This regulation requires day-to-day control over business operations.
- Remote observation is not considered the same as control.
- The Veteran's ability to answer e-mails, communicate by telephone, or to communicate at a distance by other technological means may not be enough.
- If the presumption that the Veteran does not control is triggered, then the applicant must rebut the presumption. This must be done by demonstrating that the Veteran is able to effectively manage and control the applicant, without delegating management responsibilities.
- Looking at the totality of circumstances, the applicant must show either that the Veteran is located within a reasonable commute or otherwise controls the day-to-day operations of the firm from one or more locations and has not abdicated control to others.

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**VA Office of Small and Disadvantaged
Business Utilization**

1-866-584-2344

Monday–Friday | 8 a.m. to 6 p.m. (Eastern)

Status Update:

verificationfollowup@va.gov

Profile Questions: vip@va.gov